

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
WESTERN DIVISION

In Re Application of:)
CARLOS VITERI,) NO. 08 - CV - 50031
Petitioner,)
vs.)
GABRIELLA MARIA PFLUCKER,)
Respondent.)

RESPONDENT'S ANSWER AND AFFIRMATIVE DEFENSES
TO PETITION FOR RETURN OF CHILD UNDER THE HAGUE CONVENTION

Now comes Respondent, Gabriella Maria Pflucker, by and through her attorney, Robert M. Fagan, and for her answer to a Petition For Return Of Child Under The Hague Convention, does now state as follows:

Jurisdiction

1. Denied. Respondent is filing her Motion to Dismiss, pursuant to Fed. R. Civ. P. 12(b)(1), concurrent with this Answer.
2. Admitted.

Status of Petitioner and Child

3. Admitted
4. Admitted.
5. Admitted.
6. Denied.
7. Denied.

8. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
9. Admitted.
10. Respondent admits that her daughter's habitual residence was Peru within the meaning of Article Three of the Convention. Respondent denies having wrongfully removed her daughter from Peru and denies wrongfully retaining her daughter in the United States.

Wrongful Removal and Retention of Child by Respondent

11. Denied.
12. Denied.
13. Admitted.
14. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
15. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
16. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
17. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
18. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
19. Admitted.
20. Denied.
21. Denied.

Relief Requested

22. Respondent is without sufficient knowledge and information to form a belief as to the truth of the allegations contained in this paragraph and, hence, denies same and demands strict proof thereof.
23. Denied.
24. Denied.

AFFIRMATIVE DEFENSES

Affirmative Defense Number 1

Pursuant to Article 12 of the Convention, Gabriella Maria Pflucker alleges that her daughter, Valeria Carla Viteri Pflucker, has become settled in her new environment and is now habitually resident in the United States Of America.

Affirmative Defense Number 2

Pursuant to Article 13(b) of the Convention, Gabriella Maria Pflucker alleges that the return of her daughter, Valeria Carla Viteri Pflucker, to Peru would expose her to grave risk of physical and psychological harm and would place her in an intolerable situation.

Affirmative Defense Number 3

Pursuant to Article 13 of the Convention, Gabriella Maria Pflucker alleges that her daughter, Valeria Carla Viteri Pflucker, objects to being returned to Peru and has attained an age and degree of maturity at which it is appropriate for this Honorable Court to take account of her views and opinion.

Respectfully submitted,

Gabriella Maria Pflucker

By:

/S Robert M. Fagan
Attorney for Respondent

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CERTIFICATE OF FILING AND SERVICE

I, Robert M. Fagan, certify that on March 31, 2008, in accordance with FED. R. CRIM. P. 49, FED. R. CIV. P. 5, LR 5.5, and the General Order on Electronic Case Filing (ECF), the following document:

Respondent's Answer and Affirmative Defenses to the Petition for Return of Child Under the Hague Convention

was served pursuant to the district court's ECF system as to ECF filers, including Rosa M. Tumialan, and was delivered to the following non-ECF filers by United States Mail:

Hon. Frederick J. Kapala, Judge
United States District Court
Northern District of Illinois
211 South Court Street
Rockford, Illinois 61101

/S
ROBERT M. FAGAN
Attorney for the Respondent